

E-Filed 9/10/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JAVIER MEDRANO SOTO,

No. 5:09-CV-02126 RS

Plaintiff,

v.

**ORDER EXTENDING SUMMONS
AND CONTINUING CASE
MANAGEMENT CONFERENCE**

JOHN W. VOJTECH and CBC FRAMING,
INC., a California Corporation,

Defendants.

THIS MATTER is before the Court upon the filing of an affidavit by counsel for plaintiff Javier Medrano Soto. According to the affidavit, attempts to serve defendant John W. Vojtech have thus far proven unsuccessful. For this reason, plaintiff's counsel requests the Court to continue the case management conference currently scheduled for September 16, 2009.

Federal Rule of Civil Procedure 4(m) provides: "If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time." A review of the docket in this case indicates that plaintiff filed his complaint on May 14, 2009, and the Court issued a summons as to defendant Vojtech on the same date. The 120 day period delineated by Rule 4(m) expires on September 14, 2009.

1 It is hereby ORDERED that the summons is extended for an additional **45 day** period
2 beyond its expiration on September 14, 2009.

3 It is further ORDERED that the case management conference shall be continued to
4 **November 18, 2009, at 2:30 p.m.**, in Courtroom 4, 5th Floor, United States Courthouse, 280 South
5 First Street, San Jose, California.

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8 Dated: 9/10/09



RICHARD SEEBORG
UNITED STATES MAGISTRATE JUDGE